REMARKS/ARGUMENTS

Claims 1-15 are pending in the present application.

This Amendment is in response to the Office Action mailed June 27, 2008. In the Office Action, the Examiner provisionally rejected claims 1-4 under nonstatutory double patenting rejection; and rejected claims 1-15 under 35 U.S.C. §102(b). Reconsideration in light of the remarks made herein is respectfully requested.

Double Patenting

The Examiner rejects claims 1-4 under the judicially created doctrine of the obviousness-type double patenting of claims 1 and 4 of copending Application No. 10/724,286 ("'286 Patent"). The Examiner asserts that although the conflicting claims are not identical, they are not patentably distinct from each other because of U.S. Patent No. 6,615,319. Applicant respectfully disagrees.

The claims in the presenting invention are drawn to "controlling storage and playback of digital broadcasting contents" whereas the claims in '286 Patent are drawn to "protecting and managing digital broadcasting contents." Indeed, the claims in '286 Patent are distinct from those in the present invention in that '286 Patent claims:

> "an additional data generation means for generating additional data including use control metadata, tool information metadata, and content purchase information metadata to protect and manage the digital broadcasting contents",
>
> "a media encoding means for compressing the watermarked A/V media signal; an encrypting means for encrypting the compressed A/V media signal," and
>
> "a re-multiplexing means for receiving and re-multiplexing the media transport stream, the additional data and the access control information to thereby output a re-multiplexed signal" (claim 1 of '286 Patent).

In contrast, the invention's claims include the following limitations:

> "a copy control information (CCI) generation means for generating copy control information;
>
> a broadcasting flag (BF) generation means for generating broadcasting flag; and
>
> a retention information (RI) generation means for generating retention information" (claim 1 of the present invention)

Hence, given that '286 Patent and the present invention are drawn to differing features, Applicant respectfully disagrees that claims 1-4 essentially repeat all the features listed in claims 1 and 4 of '286 Patent.

Although Applicant respectfully disagrees with the statements made in the Office Action that claims 1-4 essentially repeat all of the features listed in claims 1 and 4 of the '286 Patent, in the interest of expediting the prosecution of the application, Applicant respectfully submits a terminal disclaimer to obviate the outstanding obviousness-type double patenting rejection. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection.

Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,157,719 issued to Wasilewski et al. ("Wasilewski"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of anticipation.

Wasilewski does not disclose, either expressly or inherently, "an access control means for generating access control information for access control service and a control word," as recited in claim 1 (and "a control information providing means for generating control information…", as recited in claim 12); "copy control information (CCI)," "a broadcasting flag (BF)," and "a retention information (RI)," as recited in claims 1 and 5.

To anticipate a claim, the reference must teach every element of a claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the…claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Wasilewski teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Wasilewski merely discloses the control word generator 203 generating the control word (CW) 202 (Wasilewski, col. 6, lines 33-34; Figure 2A). The Examiner alleges that the control word generator 203 is equivalent to the "access control means" or the "control information

providing means" (Office Action, page 6 and 9). Applicant respectfully disagrees. The control word generator 203 can be either a physically random number generator or can use a sequential counter with a suitable randomization algorithm to produce a stream of random CWs (Wasilewski, col. 6, lines 34-37). In contrast, the claim recites: "an access control means for generating access control information for access control service and a control word," (claim 1) and "a control information providing means for generating control information for recording storage, temporary storage, and playback of a broadcasting content" (claim 12). Since the control word generator 203 merely produces random CWs, there is no teaching or suggestion that the control word generator 203 also generates control information. Accordingly, Wasilewski fails to disclose this element of the claims.

In addition, Wasilewski merely discloses event NVSC 1701 being used to store entitlement information for events. Event NVSC 1701 contains Flag Field 1705 that includes flags to indicate (1) whether the event is active, (2) whether its end time has been extended, (3) whether the entitlement agent has confirmed purchase of the event, (4) whether the customer can cancel at any time, (5) whether the customer can cancel in a cancellation window, (6) whether the customer has canceled the purchase, (7) whether the right to copy the event has been purchased, and (8) whether the event is an analog or digital service (Wasilewski, col. 31, lines 12-25). The Examiner alleges that these flags are equivalent to the copy control information (CCI), broadcast flag (BF), and retention information (RI). Applicant respectfully disagrees.

Regarding claim 1, the claim recites: "a copy control information (CCI) generation means for generating copy control information," "a broadcasting flag (BF) generation means for generating broadcasting flag" and "a retention information (RI) generation means for generating retention information." There is no teaching or suggestion of means generating any of these flags contained within the Flag Field 1705, allegedly equivalent to the CCI, BF, and RI.

Regarding claim 5, the claim recites: "a control information processing means for processing a copy control information (CCI), a broadcasting flag (BF), a retention information (RI), which are storage and playback control information included in the descrambled transport stream, and storing and playing back the broadcasting content." There is no teaching or suggestion of a control information processing means for processing these flags contained within the Flag Field 1705 and storing and playing back the broadcasting content.

Therefore, Applicant believes that independent claims 1, 5, and 12 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §102(b) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: September 26, 2008 By_____

Eric S. Hyman
Reg. No. 30,139
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025